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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Cottone, et al.
Serial No. : 09/862,690
Filed : May 22, 2001
For : SELF-EXPANDING STENT
Examiner : Sarah K. Webb
Group Art Unit : 3731

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§ 1.8

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Richard J. Sterner

35,372

Agent Name

PTO Reg. No.

Richard J. Sterner

March 29, 2006

Signature

Date of Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

LETTER

Sir:

This is submitted as a follow-up to the Notification of Error in Payment of Fees as a Small Entity (37 CFR §1.28(c)) submitted by Applicants on November 17, 2004.

Via the November 17, 2004 communication, Applicants acknowledged a change in status from that of a small entity to a non-small entity which, through no deceptive intent, had not been reported at the time of the change. In this same communication, Applicants itemized all instances of fee

underpayment between the date of the change and the date of said communication, provided the Office with the actual amounts of underpayment and authorized payment of the additional fees. A copy of Applicants' Notification of Error is provided herewith.

It has just come to Applicants' attention, however, via a check of the PAIR Image File Wrapper, that although the November 17, 2004 Notification of Error was indeed received by the Office, it was erroneously labeled as a "Request for Refund." Under these circumstances, it is clear why the extra fees authorized by Applicants were never charged to Applicants' deposit account and why subsequent fees were charged by the Office at the small-entity rate, even though Applicants authorized charging of the subsequent fees in specific amounts commensurate with non-small-entity status. A copy of the relevant portion of the Image File Wrapper with the appropriate entry circled is also provided herewith.

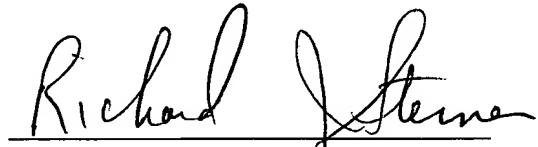
The present communication is being submitted to bring to the Office's attention that Applicants acted in good faith and made a full attempt to advise the Office of the situation and to make restitution for any previous underpayment of fees. The fact that Applicants' good-faith attempt has thus far been unsuccessful is due solely to the failure of the Office to properly consider Applicants' November 17, 2004 submission and to appreciate the reason for submission.

Applicants hereby reiterate their authorization to charge the additional fees set forth in the November 17, 2004 Notification to Deposit Account No. 23-1703. Authorization is similarly given to the Commissioner to adjust all subsequent fees that were undercharged by the Office. It is also requested that all fees due in the future be charged at the rate for a non-small entity.

No fees should be due for consideration of this communication itself. However, should it be determined that a fee is required for any reason, the Commissioner is hereby authorized to charge it as well to Deposit Account No. 23-1703.

Date: March 29, 2006

Respectfully submitted,


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Enclosures



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Image File Wrapper for Application No.:09/862,690

NF1

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Mail Room Date	Document Description	Document Category
12/21/2005	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION
12/21/2005	Fee Worksheet (PTO-875)	PROSECUTION
12/21/2005	Claims	PROSECUTION
12/21/2005	Amendment - After Non-Final Rejection	PROSECUTION
12/20/2005	Fee Worksheet (PTO-875)	PROSECUTION
06/21/2005	Search information including classification, databases and other search related notes	PROSECUTION
06/21/2005	List of references cited by examiner	PRIOR ART
06/21/2005	Non-Final Rejection	PROSECUTION
05/23/2005	Request for Continued Examination (RCE)	PROSECUTION
05/23/2005	Fee Worksheet (PTO-875)	PROSECUTION
05/23/2005	Transmittal to TC	PROSECUTION
05/23/2005	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION
05/23/2005	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION
05/23/2005	Claims	PROSECUTION
03/29/2005	Advisory Action (PTOL-303)	PROSECUTION
03/29/2005	Claims	PROSECUTION
03/15/2005	Fee Worksheet (PTO-875)	PROSECUTION
03/15/2005	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION
03/15/2005	Claims	PROSECUTION
03/15/2005	Amendment After Final	PROSECUTION
11/24/2004	Final Rejection	PROSECUTION
11/17/2004	Request for Refund	PROSECUTION



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Group Art Unit : 3731

I hereby certify that this paper is being facsimile transmitted to The U.S. Patent and Trademark Office, Alexandria, VA 22313-1450, on November 17, 2004.

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November 17, 2004

Date of Signature

Facsimile No.: 703-872-9306

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTIFICATION OF ERROR IN PAYMENT OF FEES AS A SMALL ENTITY
(37 CFR §1.28(c))

Sir:

When provisional application Serial No. 60/206,211 was filed on May 22, 2000 and the instant application, claiming benefit thereof, was filed on May 22, 2001, all parties holding rights

in the invention qualified for small entity status, and a claim for such was rightfully made. However, some time later this status changed, but, due to no deceptive intent, the claim was never subsequently withdrawn. This Notification of Error is submitted in order to effect payment of deficiencies owed in accordance with the rules. The claim to status as a small entity is hereby withdrawn.

PAYMENT OF FEES AS SMALL ENTITY

- 1) A late Declaration surcharge of \$65 was paid on November 14, 2001. The current fee amount for a non-small entity is \$130, and the deficiency owed is thus \$65.
- 2) A two-month extension fee of \$200 was paid on November 14, 2001. The current fee amount for a non-small entity is \$430, and the deficiency owed is thus \$230.
- 3) A three-month extension fee of \$465 was paid on April 3, 2003. The current fee amount for a non-small entity is \$980, and the deficiency owed is thus \$515.
- 4) A three-month extension fee of \$490 was paid on October 25, 2004. The current fee amount for a non-small entity is \$980, and the deficiency owed is thus \$490.

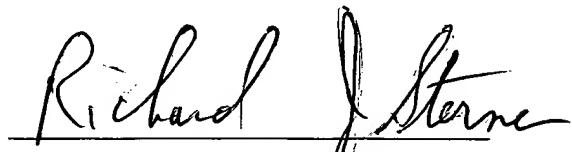
5) An RCE fee of \$395 was paid on October 25, 2004. The current fee amount for a non-small entity is \$790, and the deficiency owed is thus \$395.

FEE PAYMENT FOR DEFICIENCY

As can be determined from the itemized information above, the total deficiency owed, i.e., the difference between the amount of fees paid by Applicants at the small-entity level and the currently set amount of those fees for a non-small entity, is \$1,695. Authorization is hereby given to charge this sum to Deposit Account No. 23-1703. To the knowledge of Applicants' agent, no other fees of small-entity level were paid by Applicants or charged by the Office. However, should it be determined that any additional deficiencies exist, or should it be determined that any additional fees are due for any reason, said deficiencies or additional fees may likewise be charged.

This submission is made in good faith and meets all of the requirements of 37 CFR §1.28(c) (2).

Date: November 17, 2004 Respectfully submitted,



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